N. W. 1044, 55 L. R. A. 616, 95 Am. St. Rep. 424. The right of the insurer to subrogation can be effective only when a right of recovery exists in the insured, and no cause of action can exist in behalf of the insurer unless it existed in favor of the insured. *United States* v. *American Tobacco Co.*, 166 U. S. 468, 17 Sup. Ct. 619, 41 L. Ed. 1081, *Omaha & R. V. Ry. Co.* v. *Granite State Ins. Co.*, 53 Neb. 514, 73 N. W. 950. It was held, in the case under discussion, that such a right of recovery did exist in favor of the brewing company—the insured—against the defendant for its negligence in killing a fellow employee. This right of recovery possessed by the brewing company was in no way dependent upon a common law or statutory right of recovery for tortiously causing the death of a human being. It arose out of the rule that where an employer is not in fault but has nevertheless been compelled to pay damages to a third person for the negligence of his employee, he may maintain an action over against such employee to recover what he has been compelled to pay. STORY, AGENCY Ed. 9, § 217. 4 THOMPSON, NEGLIGENCE, § 3870. Since the right of recovery existed in favor of the insured it was held that the plaintiff, the insurer, should be subrogated to this right. The court argues that the doctrine of subrogation which applies to indemnity contracts of fire and marine insurance should by analogy apply to contracts of insurance indemnifying employers against statutory liability for the negligent killing of its employees, and that the principles involved are in no way analogous to the principles which are the basis of the doctrine refusing subrogation in life policies.

INSURANCE—TEMPORARY PRESENCE OF FORBIDDEN SUBSTANCE ON PREMISES. —In an action on a fire insurance policy issued to cover plaintiff's factory, the insurer defended, on the ground that the policy had been vitiated about five weeks previous to the fire by the presence on the premises of five gallons of gasoline for a period not exceeding an hour, the policy containing a provision to the effect that it should be void if gasoline was "kept, allowed or used" on the premises. *Held,* that the temporary presence of the gasoline did not avoid the policy. *Clute et al.* v. *Clintonville Mut. Fire Ins. Co. et al.* (1911), — Wis. —, 129 N. W. 661.

The courts are somewhat divided as to the effect of temporary violations of such conditions in insurance policies. The better rule says VANCE (INSURANCE, p. 434), is to the effect that a breach of the condition may always be shown as a defense even though it may have been but temporary and in no way affecting the insurer injuriously. The rule as expressed in Illinois is to the effect that a temporary forbidden condition only suspends the policy during the existence of this condition. *New England Fire Ins. Co.* v. *Wetmore,* 32 Ill. 221; *Traders Ins. Co.* v. *Catlin,* 163 Ill. 256. In the former the court reasons that it cannot see the justice of denying a recovery simply because there was a temporary minor increase of risk, for a period of time more or less remote as the case may be, resulting in no injury to the company. The court might be able to see the justice were it to consider the fact that the parties have so contracted. Undoubtedly the insurer is entitled to protection in case of temporary risk. In *Kyte* v. *Com. Assur. Co.,* 149 Mass.

116, 3 L. R. A. 508, recovery was denied on the ground that the premises had been used for saloon purposes without a license, contrary to a provision of the policy. The court reasoned that during the increased risk the insured was getting something for which he had not paid. The fact that information in such matters is peculiarly within the knowledge of the insured, and that the insurer has no control over the premises, might lend some force to a construction in favor of the insurer. When the breach is insignificant, as in the principal case, the courts take refuge behind the words of the policy as "kept," "allowed," or "used," and hold the policy good. *Szymkus* v. *Eureka Ins. Co.,* 114 Ill. App. 401. A single brief violation will ordinarily not avoid the policy. *Krug* v. *German Ins. Co.,* 147 Pa. St. 272, 30 Am. St. Rep. 729. The breach must be something of duration and not merely casual. *Angier* v. *Western Assur. Co.,* 10 S. D. 82, 66 Am. St. Rep. 685. We hardly think that the strongest advocate of the rule as laid down by Mr. VANCE would hold the policy in the principal case avoided.

INTOXICATING LIQUORS—JURISDICTION—INJUNCTION.—Roper, a druggist, obtained a license to sell liquors on prescription in a county in which local option was in effect. Shortly thereafter the county attorney filed an application for an injunction alleging that Roper was violating the provisions or said license and was creating and promoting a public nuisance and asked that Roper be restrained from selling intoxicating liquors. The local option law authorized the issuance of an injunction to restrain the sale of liquor within any county wherein the sale of liquor had been prohibited by law. *Held,* injunction was properly granted. (DAVIDSON, J., dissenting). *Ex parte Roper* (1911), — Tex. Crim. App. —, 134 S. W. 334.

In the earliest period of its history the courts of chancery assumed to exercise the power of preventing crimes. 1 POMEROY'S EQ. JUR., Ed. 2, § 36. But the exercise of this prerogative grew less frequent with advancing civilization, as the ordinary remedies for the punishment of crime became more effective and acts of lawlessness and violence less common. *Stuart* v. *LaSalle Co.,* 83 Ill. 341; *In re Sawyer,* 124 U. S. 200. It is now well settled that equity has no criminal jurisdiction and cannot interfere to prevent the commission of criminal acts. *Atty. Gen.* v. *Tudor Co.,* 104 Mass. 239; 16 AM. & ENG. ENCY. LAW, Ed. 2, 363. The keeping of an unlicensed dram shop will not be enjoined: *State* v. *Uhrig,* 14 Mo. App. 413; nor the violation of a Sunday law: *Sparhawk* v. *Union Co.* 54 Pa. St. 401; nor the keeping of a bawdy house: *Neaf* v. *Palmer,* 103 Ky. 496, 45 S. W. 506; nor the transacting of banking business in contravention of law: *Atty. Gen.* v. *Ins. Co.,* 2 Johns Ch. (N. Y.) 271. There are exceptions, however to this general rule. Where a private wrong has been committed, although it may also be a crime, and where property and pecuniary rights are involved, equitable relief will not be denied simply because the offender may be amenable to criminal proceedings. *Vegelahn* v. *Guntner,* 167 Mass. 92; *Weakley* v. *Page,* 102 Tenn. 178, 46 L. R. A. 552, 53 S. W. 551. The maintaining of a bawdy house which was contrary to law was enjoined on the ground that it disturbed the right of peaceful enjoyment of property in the neighborhood: *Blagen* v. *Smith,* 34 Or.